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From Colonial Good Words

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Charlotte Town.

PRINCE EDWARD ISLAND

HOW IT WAS BOUGHT BACK FROM THE LANDLORDS

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ILLUSTRATED BY HERBERT RAILTON

I PAID a three months' visit to the United States and Canada in the autumn of 1874. During November I spent a few days, as the guest of Lord and Lady Dufferin, at Government House (Rideau Hall), near Ottawa; and the result of some conversation with Lord Dufferin was that, in the following March, he asked me if I would undertake for the Dominion Government, who were to contribute largely to the expense, the settlement of the difficult controversy between the Government of Prince Edward Island and the owners of its soil, whom it was proposed entirely to buy out. The question appeared to me a very delicate one, but it was thought that, coming fresh from the Irish Land Bill debates in Parliament, I might

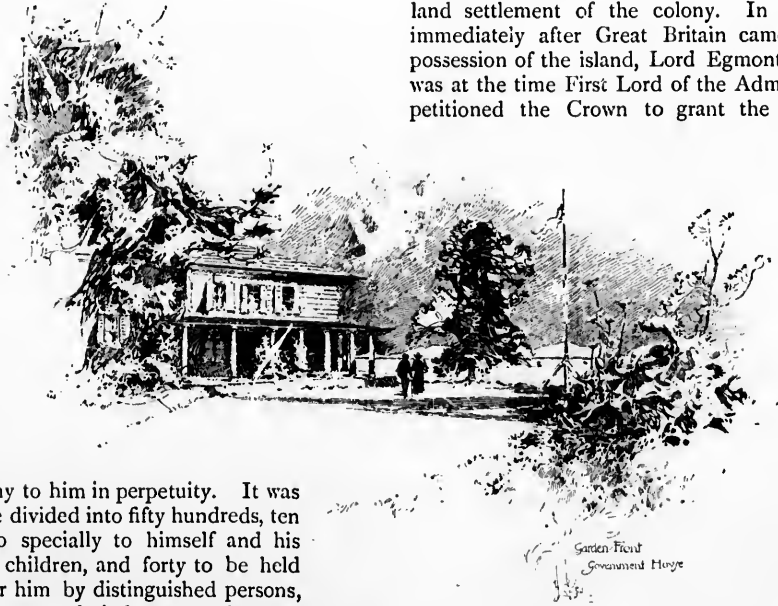
have some special advantages in working out its solution. I telegraphed that I consented to act, provided that I was not expected to remain more than six or seven weeks in the island. To this condition assent was given, and in July I reached the provincial capital, remaining till the second week of September.

In that time I settled the ten leading cases, and my successor had no difficulty in completing the entire task, within a reasonable time. Some particulars of this very curious operation, the compulsory transfer of the entire land of a colony from a small number of proprietors (chiefly absentees) to several thousand tenants, may perhaps prove of interest.

The colony, now province, of Prince Edward Island, containing about 120,000 inhabitants, lies, in the form of a crescent, within the Gulf of St. Lawrence. It is something under 150 miles in length, and contains over a million acres of arable and pasture land. Cobbett, who had never been there, spoke very disparagingly of its agricultural resources; but the "rascally heap of sand, rock and swamp," as he describes it, is one of the most fertile parts of the Canadian Dominion. Part of it is well-wooded, and many miles of the coast line are singularly picturesque. It was originally colonised by the French, who called it St. Jean, as it had been first seen by Cabot on St. John's Day; and its French character is marked even to the present day by the descendants of the

large number of refugees from Acadia who migrated here at the time of the Treaty of Utrecht. But after the capture of Quebec, it was occupied by a British force, and it was ceded by France to Great Britain under the Treaty of Fontainebleau in 1763. It then contained above 4000 inhabitants, living either on farms or at Port la Joie, the site of the present capital called Charlottetown. Some years later the name of the colony itself was changed to Prince Edward Island (instead of New Ireland as previously proposed) to commemorate the improved military defence of the island, under the orders of the Commander-in-Chief, H.R.H. the Duke of Kent, father of Her Majesty Queen Victoria.

One of the most extraordinary and preposterous proposals ever submitted to a British Executive was made in connection with the land settlement of the colony. In 1763, immediately after Great Britain came into possession of the island, Lord Egmont, who was at the time First Lord of the Admiralty, petitioned the Crown to grant the whole



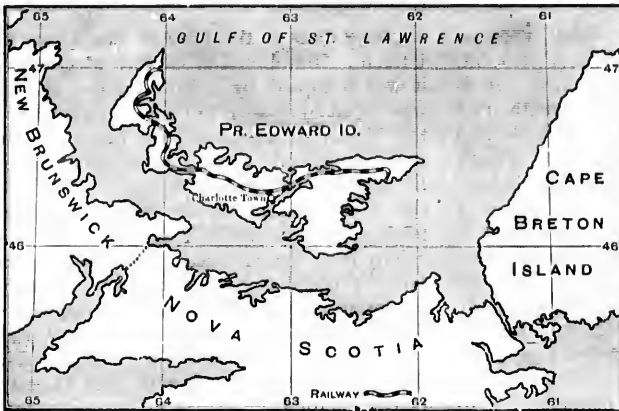
Garden Plot
Government House

colony to him in perpetuity. It was to be divided into fifty hundreds, ten to go specially to himself and his nine children, and forty to be held under him by distinguished persons, such as admirals, generals and members of Parliament. These hundreds were again to be each divided into twenty manors, with Courts Baron and other feudal institutions. Lord Egmont himself and each of his Lords of Hundreds were to have strong castles, armed with powerful cannon, to which all the Lords of Manors and copyholders could resort in case of danger.

For three years Lord Egmont had suffi-

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cient political influence to press his plan on his official colleagues, the Board of Trade and Plantations. But at last the criticisms to which it was subjected (one, it is said, being penned by Junius's "Malagrida," Lord Shelburne,) prevailed, and, Lord Egmont having left the Admiralty a few months previously, another scheme of settlement,



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almost as mischievous, received official sanction.

In 1767 the island was divided into sixty-six estates, three of which were reserved for the Crown and for local improvements, sixty-three being disposed of by a great lottery held at the Board of Trade in London. To the privilege of this lottery were admitted sixty-three persons of distinction, belonging, for the most part, to the same classes as those proposed by Lord Egmont; and to each of these the result of the lottery assigned about 20,000 acres. Only two conditions were annexed to these amazing and fortuitous grants; the payment of a small Quit rent of from two to six shillings a year per hundred acres, and the obligation to introduce a certain number of foreign Protestant settlers. Failing to comply with these conditions within a stated number of years, the proprietors were to be subject to the forfeiture of their grants.

Of course these conditions were not complied with. The foreign Protestants, as a rule, were not introduced; and the Quit rents were not paid. For instance, it was officially reported in 1797, long after the entire settlement ought to have been completed, that not a single emigrant had been settled on twenty-three of the sixty-three estates and very few on eighteen others; and the non-fulfilment of the condition, as to the religion of the emigrants, may be gathered from the fact that, by the last census, nearly half of the inhabitants of the

colony were returned as Roman Catholics. In fact, the Royal Commission of 1860 reported that to no material extent were the early settlers foreign Protestants. This neglect on the part of the proprietors, especially as to the Quit rents, led, as might be expected, to popular agitation. At last, in 1802, the Quit rent arrears were, by a special Act, ordered to be commuted; but the commuted arrears were not paid. In 1833 these arrears reached 750,000 dollars, as against 30,000

dollars actually paid since the foundation of the colony. Between 1833 and 1851 nothing effectual appears to have been done to enforce the payments due by the proprietors.

This neglect, while on the one hand very inconvenient to the Government, which lost a large proportion of the Public Revenue, was far more prejudicial to the people of the colony. They shared the universal sentiment of their neighbours on the American continent in favour of a freehold tenure. This sentiment was enhanced by the consciousness that in Prince Edward Island the grants to the sixty-three landlords, among whom the colony was originally divided, were grossly improvident, and that the conditions, subject to which the estates were granted, had not been enforced; so that immigration and settlement had been checked, if not entirely stopped. In fact, in most cases, the proprietors could not make a Title even if they were willing to sell. What the tenants sought was not so much to enforce particular prices at which they might purchase their holdings, as to secure the power of purchasing them at some price.

So far back as in 1797, this indulgence to the proprietors had been bitterly complained of by the House of Assembly, and the complaint was renewed in 1805, but all to no avail. To any one now reading the parliamentary papers it appears almost incredible that until, in 1836, Lord Durham described in strong language the misdoings of the absentee proprietors, and the reckless im-

providence of the Imperial Government, nothing was really done. He said that the absentees "held the colony as a sort of reversionary interest which required no present attention"; that "they would neither improve the land themselves nor let others improve it," but kept it in a "state of wilderness"; that "although the people, their representative assembly, the Legislative Council, and the Governor had cordially concurred in devising a remedy, all their efforts had been in vain." The influence of the absentee proprietors (it could not be, said Lord Durham, that of "equity or reason") had steadily counteracted in London the "wishes of all classes in the colony."

Lord Durham's warning, however, was entirely neglected, and the dispatch from which I have quoted, was not even communicated to the Colonial Legislature.

In 1851 Responsible Government was established in Prince Edward Island, as in other colonies; and the debts to the Crown became debts to the Colonial Government. The first result of this change was the purchase "à l'amiable," by the colony, of some of the proprietors' estates (notably of Lord Selkirk's), and this was followed by a proposal to inquire by means of a commission into a plan for giving each tenant the right to buy out the proprietor's interest in his holding. But this failed; and after lengthened negotiation a powerful Royal Commission, one of the members of which was that eminent colonial statesman, Mr. Joseph Howe, was appointed to consider the

whole question. The Assembly of the island having agreed to abide by the Commission's decision, which the leading proprietors also promised to accept, it was hoped that the controversy would be at an end.

The Commission, in their Report, awarded terms for the purchase of all the estates, but with a reserve for arbitration in many cases. They provided for all the subsidiary questions involved, including especially the arrears of Quit rent, as well as of rents due by the tenants to the proprietors.

But the work of the Commission came to nothing. It was alleged that they had been appointed to "settle" the differences relating to the rights of landowners and tenants "on just and equitable principles," but that, instead of this they had provided that if the landlord declined to accept the amount of purchase money tendered by the tenant, that amount should be subject to arbitration; and the leading proprietors strongly objected that, though willing to abide by the award of the Commission itself, they had not consented, and would not consent, to accept the award of unknown arbitrators appointed by the Commission. The Colonial Secretary (the Duke of Newcastle), under the pressure of the proprietors' agents in London, weakly sustained them in this objection, and the Report of the Commission became a dead letter.

I pass over the proceedings of the Legislature and the Government on this subject between 1861 and 1874, except to say that during those years fourteen properties were sold to the Government under private agree-



Government House.
Charlotte Town.

ments. The most notable of these sales was that of the estates belonging to Sir Edward Cunard, and Mr. William Cunard. Sir Henry Walsh and Sir Graham Montgomery were also sellers. But during these years several attempts were made by the Legislature, supporting the general view of the occupiers, to settle the question, but without success. Meanwhile a second great constitutional change took effect. The Confederation Act made Prince Edward Island a province of the Dominion of Canada, and substituted the Governor-General, for the Colonial Office, as the authority to allow or disallow the legislation of the province. In 1874 the (now Provincial) Legislature of the island passed a new Bill for compulsorily buying out the proprietors' interests. But the Dominion Government pointed out to Lord Dufferin, the Governor-General, that it did not provide for an impartial arbitration in which the proprietors would have a representative voice; and Lord Dufferin disallowed the Bill. In a subsequent dispatch, however, he reported to Lord Carnarvon, then Colonial Secretary, that a new Bill had been passed providing for an independent Commission, by which each of the proprietors' estates would be valued, and that he proposed to assent to this Bill. The proprietors would name one member, the Local Government another, and he himself the third; and he added that I had agreed to be Chairman of the Commission, and to retain the chair long enough to adjudicate upon the principal estates, especially those held by English proprietors.

In spite of vehement opposition from the landlords, the Home Government approved of Lord Dufferin's proceedings, and I left for Charlotte Town in the course of the summer of 1875.

My wife and I arrived at that very pretty place in the latter part of July. We were received by the Governor, Sir Robert Hodgson, who had insisted upon our staying at Government House during the proceedings of the Commission. I found that my two colleagues would be Dr. Jenkins, a member of the Assembly, and (for most of the cases) Mr. Haliburton, a son of the judge well known as "Sam Slick," both of them most agreeable and well-informed gentlemen. We spent a few days in settling preliminaries and formalities, which were somewhat tiresome,

as there were no precedents to guide us. But we had the assistance of the law officers, and above all of the Governor, who, having been Chief Justice, was invaluable as an adviser. We then devoted our entire time until the middle of August to visiting the proprietors' estates, the greater part of which were within reach of one or other of the stations on the railway, a well-managed narrow-gauge system of nearly 200 miles.

On the 16th of August I opened the Court. Our proceedings took the form of an action at law, in which the Commissioner of Crown Lands was plaintiff and the several proprietors defendants. We had before us a bar of eight or nine counsel, including an eminent Q.C. from New Brunswick, who was, however, taken ill on the first day and only addressed us once. Our great anxiety was to establish that the proceedings were not political, and in this we succeeded. We sat for sixteen days from 10 A.M. to 6 P.M., and in that time we dealt with the ten leading cases. On the 4th of September we formulated our awards in those cases. They dealt with above 180,000 acres, to be bought for nearly 370,000 dollars.

Later in the month I left Charlotte Town, and a few days afterwards my place on the Commission was taken by Lieut.-Governor Wilmot from Nova Scotia.

But the most serious troubles then began. Two of the proprietors, affected by our awards, appealed against them to the Supreme Court of the province. The pleadings were very formal and technical, but the main objection was that we did not set out in our awards sufficient detail. Of course it could not be stated that the form of the awards had been settled by the former Chief Justice, but I do not think that this would have influenced the Court, whose very lengthy judgments setting aside our awards were entirely in favour of the landlords.

Whether the abolition of landlordism has been an unmixed good, I do not pretend to determine. If I live to pay an eighth visit to North America, I may have an opportunity of collecting opinions on this point. Anyhow, the complete agrarian transformation through which Prince Edward Island has passed affords much instructive material for reflection.

For the success of that transformation the main credit is due to Lord Dufferin; who, after half a century of failures by less determined statesmen, both in Downing Street and in Canada, seized the favourable opportunity and brought about an agrarian revolution almost unobserved outside the Dominion.

